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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

ALASKA IRONWORKERS PENSION TRUST,

Plaintiff,
vs.

NORTHWEST STEELWORKS, LLC and
IRONSHORE INDEMNITY, INC., BOND NO.
SUR40008708,

Case No. 3:20-cv-_____

Defendants.

PLAINTIFFS' COMPLAINT

COMES NOW Plaintiff, by and through its attorneys, JERMAIN, DUNNAGAN & OWENS, P.C., and for its causes of action against Defendants, NORTHWEST STEELWORKS, LLC and IRONSHORE INDEMNITY, INC., BOND NO. SUR40008708, complains and alleges as follows:

INTRODUCTION

1. **Causes of Action:** This action arises under §§ 502(a)(3), 502(e)(1), and 515 of the Employee Retirement Income Security Act, *as amended*, 29 U.S.C. §§ 1132(a)(3), 1132(e) (1), and 1145 (the “ERISA” claims) and AS 08.18.081 (the “Contractor Licensing Bond” claims).

2. **Jurisdiction:** This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and has supplemental jurisdiction over the state law claims alleged in this Complaint pursuant to 28 U.S.C. § 1337.

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3. **Venue:** Venue lies in the United States District Court for the District of Alaska pursuant to 28 U.S.C. § 1331(b)(2).

THE PARTIES

4. **Plaintiff.** Plaintiff is the Alaska Ironworkers Pension Trust (“Trust Fund”) and Trustees.

5. **Standing.** The Trust Fund is entitled to bring this suit pursuant to § 502(d)(1) of ERISA, 29 U.S.C. § 1132(d)(1), in its capacity as an employee benefit plan governed by both Trustees and fiduciaries of the Trust Fund, as those terms are defined at § 3(21) of ERISA, 29 U.S.C. § 1002(21).

6. **Defendants.** Upon information and belief, Defendant Northwest Steelworks, LLC is an Alaska Corporation and did business in the State of Alaska at the time of the events set forth in this Complaint.

7. Upon information and belief, at all times relevant to this suit, Defendant Northwest Steelworks, LLC was an “employer” as that term is defined at § 3(5) of ERISA, 29 U.S.C. § 1002(5).

8. Upon information and belief, Defendant Ironshore Indemnity, Inc. is a bonding company authorized to conduct business as a surety within the State of Alaska and issued Bond No. SUR40008708 in favor of Northwest Steelworks, LLC pursuant to AS 18.18.071.

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FIRST CAUSE OF ACTION
(ERISA)

9. Plaintiff incorporates by reference each of the allegations set forth in paragraphs 1 through 8 of Plaintiff's Complaint.

10. Northwest Steelworks, LLC, executed a Compliance Agreement with the International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers, Local No. 751 ("Union"), dated June 21, 2013, attached hereto as **Exhibit 1**.

11. The Compliance Agreement incorporates all terms and conditions of the Collective Bargaining Agreement ("CBA") between the Alaska Steel Contractors and Erectors Association and the Union, as that term is referenced at § 515 of ERISA, 29 U.S.C. § 1145.

12. By the specific terms of the Compliance Agreement (**Exhibit 1**) and the CBA, Defendant Northwest Steelworks, LLC agreed to comply with all terms of the Alaska Ironworkers Pension Trust Amended Agreement ("Trust Agreement") (attached hereto as **Exhibit 2**) and pay contributions pertaining to the provision of retirement, health care coverage and supplemental benefits for all employees working for Defendant Northwest Steelworks, LLC.

13. The Trust Agreement is a writing that complies in all respects with the requirements of the Labor Management Relations Act ("LMRA"), 29 U.S.C. § 186(c)(5).

14. Article IX, § 2 of the Trust Agreement (**Exhibit 2**) requires Defendant Northwest Steelworks, LLC, to cooperate with authorized requests by the Trust Fund's Board of Trustees, whether made directly or through an authorized representative, to examine Northwest Steelwork's "payroll books and records," whenever such examination is deemed necessary or advisable by the Trustees.

15. As authorized by Article IX, § 2 of the Trust Agreement (**Exhibit 2**), Plaintiff Trust Fund requested, through an authorized representative engaged by the Trust Fund for purposes of

conducting a payroll audit, employer payroll records from Defendant Northwest Steelworks, LLC, for the period of January 2019 through September 2020, but Northwest Steelworks failed to provide the requested records. (*See*, email correspondence between P. Knowlton (Plaintiff Trust Fund's authorized representative) and D. Utoafili (Northwest Steelworks) of Sept. 11, 2020 – Oct. 27, 2020, attached as **Exhibit 3**).

16. Defendant Northwest Steelworks, LLC has breached the CBA and Trust Agreement by failing to comply with Plaintiff Trust Fund's duly authorized request to examine Northwest Steel Works' payroll books and records for the period of January 2019 through September 2020.

17. Pursuant to the CBA and the Trust Agreement to which Defendant Northwest Steelworks, LLC is bound, it employed persons within the trade and territorial jurisdiction of the CBA and the Trust Agreement, and thereby became obligated to submit timely reports and remit those employer contributions on all hours worked by bargaining unit employees as required to the Plaintiff Trust Fund on a monthly basis.

18. An audit of Defendant Northwest Steelworks, LLC's payroll books and records, including banking records, for the period of January 2019 through September 2020 is necessary to determine whether Defendant has in fact submitted timely reports and remitted the employer contributions on all hours worked by bargaining unit employees as required to the Plaintiff Trust Fund on a monthly basis.

19. Defendant Northwest Steelworks, LLC is obligated pursuant to 29 U.S.C. § 1059 to maintain records for each of its employees sufficient to determine the benefits due or which may

become due to such employees and, to the extent Northwest Steelworks, has failed to maintain these records, such failure constitutes a violation of 29 U.S.C. § 1059 by Northwest Steelworks.

20. Should the audit of Defendant Northwest Steelworks, LLC's records demonstrate it has underpaid its contributions, the CBA and Trust Agreement under § 502(g) of ERISA, 29 U.S.C. § 1132(g), will require Defendant Northwest Steelworks, LLC to pay the following: Costs incurred in reviewing its payroll records resulting in a delinquency determination; liquidated damages for failure to make timely and full contribution payments to the Trust Fund; plus all interest, reasonable attorney fees, and costs incurred. Defendant Northwest Steelworks, LLC will be liable to Plaintiff for these costs, damages, interest and fees.

SECOND CAUSE OF ACTION
Contractor Licensing Bond (AS 08.18.071-.081)

21. Plaintiff incorporates by reference each of the allegations set forth in paragraphs 1 through 20 of Plaintiff's Complaint.

22. Defendant Ironshore Indemnity, Inc. bound itself in the sum of \$10,000.00 under Bond No. SUR40008708, to assure payment of claims made by all persons supplying labor and material in the prosecution of the work performed by Northwest Steelworks, LLC. The Bond was filed with the State of Alaska, as required by AS 08.18.071 for contractors doing business in the State of Alaska. The surety bond's effective date was March 8, 2016.

23. By reason of the failure of Defendant Northwest Steelworks, LLC to comply with its obligations under the CBA and Trust Agreement, Plaintiff may have a claim upon Bond No. SUR40008708 with Ironshore Indemnity, Inc. pursuant to AS 08.18.071 and AS 08.18.081. Plaintiffs may be entitled to payment from Defendant Ironshore Indemnity, Inc. in the amount of \$10,000.00 pursuant to AS 08.18.081.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Trust Fund prays for judgment against the Defendants as follows:

1. That upon appropriate motion, this Court enter an order compelling Defendant Northwest Steelworks, LLC to produce to Plaintiff its “payroll books and records,” including banking records, for the period of January 2019 through September 2020, for purposes of conducting a payroll audit;
2. That this Court enter judgment against Defendants Northwest Steelworks, LLC and Ironshore Indemnity, Inc., Bond No. SUR40008708, jointly and severally, awarding Plaintiff Trust Fund any delinquent contributions due and owing as proven in this action; interest at the contract rate of ten percent (10%) per annum; liquidated damages; and, all attorneys’ fees and costs in accordance with the terms of the CBA and Trust Agreement;
3. For post-judgment interest at the maximum lawful rate; and
4. For such other and further relief as the Court deems just and equitable.

DATED at Anchorage, Alaska this 9th day of November, 2020.

JERMAIN DUNNAGAN & OWENS, P.C.
Attorneys for Plaintiffs

By: /s/ Robert A. Royce

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